



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

999 18TH STREET- SUITE 300

DENVER, CO 80202-2466

Phone 800-227-8917

<http://www.epa.gov/region08>

September 15, 2006

Ref: 8ENF-UFO

CERTIFIED MAIL 7005-0390-0000-4847-5758
RETURN RECEIPT REQUESTED

CT Corporation System, Registered Agent
136 East South Temple, Suite 2100
Salt Lake City, Utah 84111

Re: UNDERGROUND INJECTION CONTROL
PROGRAM (UIC)
Complaint with Notice of Opportunity for
Hearing

Dear Sirs:

The enclosed document is a Complaint with Notice of Opportunity for Hearing ("complaint") for violations of the Safe Drinking Water Act ("SDWA"). Please carefully read the complaint soon, since it describes Citation Oil and Gas Corporation's ("Citation's") rights and responsibilities in this matter as well as EPA's authority, the factual basis of the violations, and the background for the proposed penalties. EPA is enclosing a copy of the Rules of Practice that govern these proceedings, an information sheet about the Small Business Regulatory Enforcement Fairness Act, and a required Public Notice associated with this complaint.

Citation is required to take action within 30 calendar days of your receipt of this complaint to avoid the possibility of having a default judgment entered against Citation that could impose the penalty amount proposed in the complaint.

Whether or not Citation requests a hearing, we encourage an informal conference with EPA concerning the alleged violations in an effort to negotiate a settlement. Citation may wish to appear at an informal conference and/or be represented by legal counsel. To arrange for such a conference, Citation should contact Jim Eppers, Enforcement Attorney, Legal Enforcement Program, at the number provided below. Request for such a conference does not extend the 30 calendar day period during which a request for hearing must be submitted. Public Notice of EPA's complaint and the opportunity to provide written comments on the complaint is being provided pursuant to section 1423 (c)(3)(B) of the SDWA, 42 U.S.C. § 300h-2(c)(3)(B). Should a hearing be held, any person who comments on the complaint has a right to participate in the hearing.

If Citation has technical questions relating to this matter, the person most knowledgeable on my staff is Nathan Wiser, UIC Enforcement Team, Technical Enforcement Program, at 1-800-227-8917 ext. 6211 or (303) 312-6211. For all legal questions, the person most knowledgeable on my staff is Jim Eppers at 1-800-227-8917 ext. 6893 or (303) 312-6893. Mr. Wiser and Mr. Eppers can also be reached at the following addresses:

Nathan Wiser, Environmental Scientist (Mail Code 8ENF-UFO)
U.S. EPA Region 8
999 18th Street, Suite 300
Denver, Colorado 80202-2466, or

Jim Eppers, Enforcement Attorney (Mail Code 8ENF-L)
U.S. EPA Region 8
999 18th Street, Suite 300
Denver, Colorado 80202-2466.

We urge Citation's prompt attention to this matter.

Sincerely,

SIGNED

Carol Rushin
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

Enclosures:

Complaint with Notice of Opportunity for Hearing
Public Notice
Small Business Regulatory Enforcement Fairness Act fact sheet
40 CFR Part 22 Rules of Practice

cc: Elaine Willie, Environmental Coordinator (with all enclosures)
Ute Indian Tribe
P.O. Box 460
Fort Duchesne, Utah 84026

Lynn Becker, Energy and Minerals Department Land Manager (with all enclosures)
Ute Indian Tribe
P.O. Box 70
Fort Duchesne, Utah 84026

Gary C. Johnson, Attorney

Citation Oil and Gas Corporation
8223 Willow Place South, Suite 250
Houston, Texas 77070-5623

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

Docket No. **SDWA-08-2006-0059**

In the Matter of:)	
)	
Citation Oil and Gas Corporation)	COMPLAINT WITH NOTICE OF
a Delaware corporation,)	OPPORTUNITY FOR HEARING
Respondent.)	(COMPLAINT)
)	
Proceedings under Section 1423(c))	
of the Safe Drinking Water Act)	
42 U.S.C. 300h-2(c))	

INTRODUCTION

1. This civil administrative enforcement action is authorized by Congress in section 1423(c) of the Public Health Service Act, also known as the Safe Drinking Water Act (SDWA or the Act). 42 § U.S.C. 300h-2(c). The Environmental Protection Agency (EPA) regulations authorized by the statute are set out in part 144 of title 40 of the Code of Federal Regulations (40 C.F.R.), and violations of the statute, permits or EPA regulations constitute violations of the Act. The rules for this proceeding are the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders and the Revocation, Termination or Suspension of Permits (“Rules of Practice”),” 40 C.F.R. part 22, a copy of which is enclosed.
2. The undersigned EPA official has been properly delegated the authority to issue this Complaint with Notice of Opportunity for Hearing (complaint).
3. EPA alleges that Citation Oil and Gas Corporation (Respondent) has violated the Act and proposes the assessment of a civil penalty, as more fully explained below.

NOTICE OF OPPORTUNITY FOR A HEARING

4. Respondent has the right to a public hearing before an administrative law judge to disagree with any factual allegation made by EPA in the complaint or the appropriateness of the proposed penalty, or to present the grounds for any legal defense it may have.

5. To disagree with the complaint and assert your right to a hearing, Respondent must file a written answer (and one copy) with the Region 8 Hearing Clerk at the following address:

Region 8 Hearing Clerk
999 18th Street; Suite 300 (8RC)
Denver, Colorado 80202

within 30 calendar days of receiving this complaint. The answer must clearly admit, deny or explain the factual allegations of the complaint, the grounds for any defense, the facts you may dispute, and your specific request for a public hearing. Please see section 22.15 of the Rules of Practice for a complete description of what must be in the answer.

FAILURE TO FILE AN ANSWER AND REQUEST FOR HEARING WITHIN 30 CALENDAR DAYS MAY WAIVE RESPONDENT'S RIGHT TO DISAGREE WITH THE ALLEGATIONS OR PROPOSED PENALTY, AND RESULT IN A DEFAULT JUDGMENT AND ASSESSMENT OF THE PENALTY PROPOSED IN THE COMPLAINT, OR UP TO THE MAXIMUM AUTHORIZED BY THE ACT.

QUICK RESOLUTION

6. Respondent may resolve this proceeding at any time by restoring mechanical integrity to the well referenced in paragraph 10 and paying the penalty amount proposed in the complaint. Such action to make payment need not contain any response to, or admission of, the allegations in the complaint. Such action to make payment constitutes a waiver of Respondent's right to contest the allegations and to appeal the final order. See section 22.18 of the Rules of Practice for a full explanation of the quick resolution process.

SETTLEMENT NEGOTIATIONS

7. EPA encourages discussing whether cases can be settled through informal settlement conferences. If you want to pursue the possibility of settling this matter, or have any other questions, contact Jim Eppers, Enforcement Attorney, at [1-800-227-8917; extension 6893 or 303-312-6893] or at the address identified in paragraph 22 herein. **Please note that calling Mr. Eppers or requesting a settlement conference does NOT delay the running of the 30 day period for filing an answer and requesting a hearing.**

GENERAL ALLEGATIONS

The following general allegations apply to all times relevant to this action, and to each count of this complaint:

8. Pursuant to section 1422 of the Act, 42 U.S.C. § 300h-1, and 40 C.F.R. part 147 subpart

TT, section 147.2253, EPA administers the Underground Injection Control (UIC) program for Class II wells in Indian country within the State of Utah. The effective date of the program is November 25, 1988. The program requirements are located at 40 C.F.R. parts 124, 144, 146, 147, and 148.

9. Class II underground injection wells under the jurisdiction of the EPA are authorized to operate either under an EPA-issued permit or under a rule. To be eligible to operate under rule-authorization, a UIC well must be a Class II enhanced oil recovery well and have been such a well at the time the EPA UIC program became effective. The rule-authorization requirements are found in Title 40 of the Code of Federal Regulations (40 CFR), Subpart C (Sections 144.21 through 144.28). All other Class II wells must be authorized by an EPA-issued permit. Enhanced oil recovery wells are wells that inject for the purpose of increasing oil and/or gas production at other nearby production wells.
10. The well subject to this action is a Class II enhanced oil recovery well. This well operated under rule-authorization when the federal UIC program became effective on November 25, 1988, until a permit was issued for it on August 20, 2004. This well was acquired by Respondent from Exxon Corporation on or about April 7, 1995. The reason this formerly rule-authorized well became permitted is that Respondent desired to expand the top of the effective injection zone from 5395 feet, which had been authorized by rule, to 4327 feet, a change which necessitated issuance of a permit. This well is owned by Citation 1994 Investment LP and operated by Respondent and is located within the exterior boundary of the Uintah & Ouray Indian Reservation. This well and its location are:

Walker Hollow #26, EPA Permit #UT20971-02533, T7S, R23E, Sec. 11, SW/4, NW/4.

11. The regulations at 40 CFR §144.51(m) and the UIC permit #UT2971-02533 at part II(C)(1)(a) require Respondent to receive authorization to commence injection after being initially permitted. After being initially permitted, Respondent commenced a rework of this well to expand its effective injection zone, pursuant to the permit. This rework failed to include a mechanical integrity demonstration, a permit condition necessary for EPA to grant authorization to commence injection. EPA had been awaiting, and still awaits, this rework report in order to authorize injection to commence. Nonetheless, Respondent began injecting into the well shortly after the well rework and did so until a July 11, 2006 routine inspection by EPA. During that inspection, it was discovered that the well lacked mechanical integrity because the well's annulus had 80 psi pressure observed at the surface, and this pressure could not be bled off. It was following this inspection that the rework and injection history was discovered by Respondent. From the time Respondent commenced injection following the well rework until the date of EPA's routine inspection on July 11, 2006, this well operated without authorization, which is a violation. See Attachment A to this complaint where this violation is summarized and labeled with the letter "A."
12. A Class II well authorized by permit must maintain mechanical integrity as required

under Title 40 of the Code of Federal Regulations, Section 144.51(q) and the UIC permit #UT20971-02533 at part II(B). After being initially permitted, this well lost mechanical integrity when it was being reworked to expand its effective injection zone, pursuant to the permit. The rework appears to have resulted in a single packer being set at or near 5190 feet depth, with open perforations located above the packer, in the well's annulus, from 4327 to 4743 feet. This configuration results in a well that cannot demonstrate mechanical integrity, owing to the open perforations in the well's annulus. During the time from this well's rework and continuing now, this well is in violation of the requirement to maintain mechanical integrity. See Attachment A to this complaint where these violations are summarized and labeled with the letter "B."

13. EPA sent Respondent a notice of violation regarding this well's lack of mechanical integrity and unauthorized injection in a letter dated July 13, 2006, to which Respondent replied with its July 19, 2006 request for a permit modification, and its August 14, 2006 response to EPA's notice of violation.
14. The Respondent, as of February 26, 1981, and to the present, is a corporation organized in the State of Delaware and is authorized to do business in the State of Utah.
15. Respondent is a "person" within the meaning of Section 1401(12) of the Act, 42 U.S.C. § 300f(12).
16. The well penetrates underground sources of drinking water (USDWs) including, but not limited, to groundwater in, the Uinta Formation from ground surface to approximately 2784 feet below surface.
17. A summary list of the violations alleged is included as Attachment A to this complaint.

COUNT 1

18. Respondent is in violation of the regulations at 40 CFR §144.51(m) and the UIC permit #UT20971-02533 at part II(C)(1)(a) by injecting without authorization from EPA. The duration of the Respondent's violation is shown in detail in Attachment A, where this violation is labeled with the letter "A."

COUNT 2

19. Respondent is in violation of the regulations at 40 CFR 144.51(q) and the UIC permit #UT20971-02533 at part II(B) by failing to maintain mechanical integrity at this well. The duration of the Respondent's violation is shown in detail in Attachment A, where this violation is labeled with the letter "B."

PROPOSED ORDER WITH ADMINISTRATIVE CIVIL PENALTY

20. For violations of the Act that occurred on or after March 16, 2004, the Act, as amended,

authorizes the assessment of a civil penalty of up to \$32,500.00 per day, 42 U.S.C. § 300h-2(b). The Act requires EPA to take into account the following factors in assessing a civil penalty: the nature, circumstances, extent and gravity of the violations; any economic benefit or savings gained resulting from the violations; Respondent's history of such violations; Respondent's culpability for the violations; Respondent's good-faith efforts to comply with applicable requirements; the economic impact of the penalty on the Respondent; and other factors that justice may require. 42 U.S.C. § 300h-2(c)(4)(B).

21. In light of the statutory factors and the specific facts of this case, **EPA proposes that the Respondent be ordered to return the Walker Hollow #26 well to compliance and pay a penalty of \$8,061.00 (eight thousand sixty-one dollars) for the violations alleged above, as explained below:**

Nature, Circumstances, Extent, and Gravity of Violations

Respondent has the ability and means to comply by reworking this well to establish and maintain its mechanical integrity. Respondent as operator had, and continues to have, access to this well. Respondent's use of this well without mechanical integrity threatens to cause movement of fluids into a USDW that may endanger the health of persons.

Prior Compliance History

This complaint is the second enforcement action EPA Region 8 has issued to Respondent requiring compliance with the applicable UIC regulations. A prior case, under Docket number SDWA-08-2005-0059, concluded on March 30, 2006, and involved violations at injection wells in this same oil field. Because of its prior history, EPA has made an upward adjustment to the penalty proposed.

Good-Faith Efforts to Comply

Respondent responded to EPA's July 13, 2006, with a July 19, 2006, request to modify its permit so that it could set two packers in the well and establish mechanical integrity. Respondent ceased injection immediately after it discovered the matter. EPA considers that Respondent has made good faith efforts to comply, once it was brought to Respondent's attention by EPA and has made a downward adjustment to the penalty proposed.

Degree of Culpability

Respondent is a large independent oil company with a net worth of approximately \$75 million, employing approximately 350 people, with operations in several different states. It should have been aware of all UIC requirements when it applied for and received the EPA UIC permit #UT20971-02533. EPA has made no adjustment to the penalty proposed.

Economic Benefit

An economic benefit was experienced by Respondent for its failure rework the well to establish mechanical integrity. The economic benefit is Respondent's delayed expenditure of resources to establish mechanical integrity at this well. The total delayed cost of compliance is estimated to be \$459.

Ability to Pay

EPA did not reduce the proposed penalty due to this factor, but will consider any new information Respondent may present regarding Respondent's ability to pay the penalty proposed in this complaint.

Other Matters that Justice may Require

No adjustments were made regarding this factor.

22. Respondent's payment of the penalty shall be made by money order or certified check made payable to "Treasurer, United States of America" and mailed to the following address:

EPA - Region 8
Regional Hearing Clerk
P.O. Box 360859
Pittsburgh, Pennsylvania 15251.

A copy of said check shall be mailed to the following address:

Jim Eppers (8ENF-L)
Enforcement Attorney
U.S. EPA - Region 8
999 18th Street, Suite 300
Denver, Colorado 80202-2466.

23. The provisions of this complaint shall apply to and be binding upon Respondent, its officers, directors, agents, servants, employees, and successors or assigns.
24. As required by the Act, prior to the assessment of a civil penalty, EPA will provide public notice of the proposed penalty, and reasonable opportunity for people to comment on the matter, and present evidence in the event a hearing is held. 42 U.S.C. § 300h-2(c)(3)(B).

25. The administrative law judge is not bound by EPA's penalty policy or the penalty proposed by EPA, and may assess a penalty above the proposed amount, up to \$32,500.00, per day for each violation, as authorized in the statute, as amended.
26. This complaint does not constitute a waiver, suspension, or modification of the requirements of any applicable provision of the Act or the UIC regulations implementing the Act, which remain in full force and effect. Issuance of this complaint is not an election by the EPA to forego any civil or any criminal action otherwise authorized under the Act.

Issued this 15th day of September, 2006.

SIGNED

Carol Rushin
Assistant Regional Administrator
Office of Enforcement, Compliance,
and Environmental Justice
U.S. EPA, Region 8
999 18th Street, Suite 300
Denver, CO 80202-2466

CERTIFICATE OF SERVICE
Docket No.

I hereby certify that the original and a true copy of the Complaint with Notice of Opportunity for Hearing bearing the above-referenced Docket number were hand-carried to the Regional Hearing Clerk, EPA Region 8, 999 18th Street, Denver, Colorado, and that a true copy of the same was sent via Certified Mail Return Receipt Requested mail to:

CT Corporation System, Registered Agent
136 East South Temple, Suite 2100
Salt Lake City, Utah 84111,

and by first class U.S. Mail to:

Gary C. Johnson, Attorney
Citation Oil and Gas Corporation
8223 Willow Place South, Suite 250
Houston, Texas 77070-5623

Dated: 9/18/06 By: SIGNED
Judith McTernan

IF YOU WOULD LIKE COPIES OF THE ATTACHMENTS, PLEASE CONTACT THE REGIONAL HEARING CLERK.

THIS DOCUMENT WAS FILED IN THE REGIONAL HEARING CLERK'S OFFICE ON SEPTEMBER 18, 2006.